

STATE OF CALIFORNIA
FISH AND GAME COMMISSION
INITIAL STATEMENT OF REASONS FOR REGULATORY ACTION
(Pre-publication of Notice Statement)

Amend Section 27.80
Title 14, California Code of Regulations
Re: Ocean Salmon Sport Fishing

I. Date of Initial Statement of Reasons: December 20, 2007

II. Dates and Locations of Scheduled Hearings:

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| (a) | Notice Hearing: | Date: February 8, 2008
Location: San Diego, CA |
| (b) | Discussion Hearing: | Date: March 7, 2008
Location: Stockton, CA |
| (c) | Discussion Hearing: | Date: April 11, 2008
Location: Bodega Bay, CA |
| (d) | Adoption Hearing: | Date: April 15, 2008
Location: Teleconference |

III. Description of Regulatory Action:

- (a) Statement of Specific Purpose of Regulation Change and Factual Basis for Determining that Regulation Change is Reasonably Necessary:

The Pacific Fishery Management Council (PFMC) annually reviews the status of west coast salmon populations. As part of that process, it recommends ocean salmon fisheries regulations aimed at meeting biological and fishery allocation goals specified in law or established in the Salmon Fishery Management Plan (FMP). These recommendations coordinate west coast management of sport and commercial ocean salmon fisheries in the Federal fishery management zone (3 to 200 miles offshore) off the coasts of Washington, Oregon, and California. These recommendations are subsequently implemented as ocean fishing regulations by the National Marine Fisheries Service (NMFS).

California's sport fishing regulations will need to conform to the new Federal regulations to achieve optimum yield in California. The Fish and Game Commission (Commission) adopts regulations for the ocean

salmon sport fishery in State waters (zero to three miles offshore) which are consistent with Federal fishery management goals and are effective at the same time.

PFMC Regulatory Outlook

On March 14, 2008, the PFMC will develop the ocean salmon fisheries regulatory options for public review and the final PFMC regulation recommendations will be made on April 11, 2008. The various ocean salmon sport fishery alternatives that the PFMC will examine in the process of adopting options may include:

1. the minimum size of salmon that may be retained;
2. the number of rods anglers may use (e.g., one, two, or unlimited);
3. the type of bait and/or terminal gear that may be used (e.g., amount of weight, hook type, and type of bait or no bait);
4. the number of salmon that may be retained per angler-day or period of days;
5. the definition of catch limits to allow for combined boat limits versus individual angler limits;
6. the allowable fishing dates and areas; and
7. the overall number of salmon that may be harvested, by species and area.

Commission Regulatory Outlook

Although there are no PFMC regulatory options to review at this time, the 2008 ocean salmon sport regulations could range from no fishing after April 7 to status-quo (2007) regulations. The PFMC March options serve as the basis for the Commission's regulatory action affecting the state's ocean salmon sport fishery. There exists a possibility that the NMFS will close federal waters before May 1 due to projected low Central Valley salmon abundance.

For public notice purposes, the Department is proposing the full range of regulatory possible changes from no fishing after April 7 to current regulations with two options for the area north of Horse Mountain and Humboldt Bay.

The reference to Section 1.74 in subsection 27.80(a)(1) is proposed to be removed as salmon report cards are no longer required in ocean waters north of Horse Mountain.

Seasons and Exceptions

(1) North of Horse Mountain and Humboldt Bay

- a. There are two options for this area:
 - i. Option 1 - The 2008 season is proposed to open between May 1 and August 31 and close between September 1 and September 30.
 - ii. Option 2 – The area will remain closed for 2008.
- b. In 2009, the season will be decided in April 2009 by the Pacific Fishery Management Council and California Fish and Game Commission and the section will be amended pursuant to the regulatory process.

(2) Between Horse Mountain and Point Arena

- a. The 2008 season will open February 16 and is proposed to close between April 7 and November 16.
- b. In 2009, the season will open February 14.

(3) Between Point Arena and Pigeon Point

- a. The 2008 season will open April 5 and is proposed to close between April 7 and November 9.
- b. In 2009, the season will open April 4.
- c. Exception if the ocean area outside San Francisco Bay is closed for any reason during the proposed season.
 - i. The San Francisco Bay will open to salmon fishing on April 5 and close between April 7 and November 9. For purposes of this regulation, the San Francisco Bay is defined as the waters of San Francisco and San Pablo bays plus all their tidal bays, tidal portions of their rivers and streams, sloughs and estuaries between Golden Gate Bridge and Carquinez Bridge unless otherwise noted in Section 7.50.

(4) Between Pigeon Point and Point Sur

- a. The 2008 season will open April 5 and is proposed to close between April 7 and October 5.
- b. In 2009, the season will open April 4.

(5) South of Point Sur

- a. The 2008 season will open April 5 and is proposed to close between April 7 and October 5.
- b. In 2009, the season will open April 4.

Bag Limit and Minimum Size

- (1) North of Horse Mountain: The bag limit may be zero, one or two salmon per day and the minimum size will range between 20 and 24 inches total length.
- (2) South of Horse Mountain: The bag limit may be zero, one or two salmon per day and the minimum size will range between 20 and 24 inches total length.

Further Commission action affecting the ocean salmon sport fishery may be needed after the annual PPMC reports, *Review of 2007 Ocean Salmon Fisheries* and *Preseason Report I Stock Abundance Analysis for 2008 Ocean Salmon Fisheries*, are available in late February 2008.

- (b) Authority and Reference Sections from Fish and Game Code for Regulation:

Authority: Sections 200, 202, 205, 220, 240, 316.5 and 2084, Fish and Game Code.

Reference: Sections 200, 202, 205, 316.5 and 2084, Fish and Game Code.

- (c) Specific Technology or Equipment Required by Regulatory Change:

None.

- (d) Identification of Reports or Documents Supporting Regulation Change:

Pacific Fishery Management Council. 2003. The Fishery Management Plan for the Commercial and Recreational Salmon Fisheries Off the Coasts of Washington, Oregon, and California as Revised Through Amendment 14. 7700 NE Ambassador Place, Suite 200, Portland, Oregon 97220.

- (e) Public Discussions of Proposed Regulations Prior to Notice Publication:

No public meetings are being held prior to the notice publication. The PPMC will hold a series of public hearings to receive input prior to finalizing the recreational ocean salmon recommendations in April.

IV. Description of Reasonable Alternatives to Regulatory Action:

- (a) Alternatives to Regulation Change:

The PFMC will examine various alternatives in the process of adopting the management options on March 14, 2008 for public review. These may include such alternatives as:

1. the minimum size of salmon that may be retained;
2. the number of rods anglers may use (e.g., one, two, or unlimited);
3. the type of bait and/or terminal gear that may be used (e.g., amount of weight, hook type, and type of bait or no bait);
4. the number of salmon that may be retained per angler-day or period of days;
5. the definition of catch limits to allow for combined boat limits versus individual angler limits;
6. the allowable fishing dates and areas; and
7. the overall number of salmon that may be harvested, by species and area.

(b) No Change Alternative:

Upon approval of the PFMC's recommendations by the NMFS, the State must move in a timely manner to conform its ocean sport fishing regulations for salmon in State waters (zero to three miles offshore) to the Federal regulations in order for the new state and federal regulations to become effective at the same time. Otherwise, preemption of State regulatory authority by the NMFS could occur if State regulations are in conflict with Federal regulations.

(c) Consideration of Alternatives:

In view of the information currently possessed, no reasonable alternative considered would be more effective in carrying out the purposes for which the regulation is proposed, or would be as effective and less burdensome to affected private persons than the proposed regulation.

V. Mitigation Measures Required by Regulatory Action:

The proposed regulatory action will have no negative impact on the environment. Therefore, no mitigation is necessary.

VI. Impact of Regulatory Action:

The potential for significant statewide adverse economic impacts that might result from the proposed regulatory action has been assessed, and the following initial determinations relative to the required statutory categories have been made:

- (a) Significant Statewide Adverse Economic Impact Directly Affecting Businesses, Including the Ability of California Businesses to Compete with Businesses in Other States:

The proposed action will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states. The proposed changes are necessary for the continued preservation of the resource and therefore the prevention of adverse economic impacts.

- (b) Impact on the Creation or Elimination of Jobs Within the State, the Creation of New Businesses or the Elimination of Existing Businesses, or the Expansion of Businesses in California:

None.

- (c) Cost Impacts on a Representative Private Person or Business:

The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

- (d) Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State:

None.

- (e) Nondiscretionary Costs/Savings to Local Agencies:

None.

- (f) Programs Mandated on Local Agencies or School Districts:

None.

- (g) Costs Imposed on Any Local Agency or School District that is Required to be Reimbursed Under Part 7 (commencing with Section 17500) of Division 4:

None.

- (h) Effect on Housing Costs:

None.

Informative Digest (Policy Statement Overview)

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